

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>Dodds Ditch water users:</b></p> <p><b>Gala Morris</b></p> <p><b>Carol and Dyle Webster</b></p> <p><b>Kendal and Erin Hacking</b></p> <p><b>et al (other lawful users)</b></p> <p><b>RESPONDENTS</b></p>	<p><b>MEASURING DEVICE NOTICE</b></p> <p>SEAA No. 1505</p> <p>DISTRIBUTION ACCOUNTS: 103019, 103409</p> <p>WATER RIGHT: 45-103</p>
---	--

**I. AUTHORITY**

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

## II. STATEMENT OF FACTS

1. Respondents divert surface water within the Ashley Creek Distribution System operated under the direction of the Ashley Creek Water Commissioner appointed by the Utah State Engineer.
2. The existing 2-foot steel Parshall flume located at the head of Dodds Ditch is corroded and weathered to the extent that it no longer provides an accurate water measurement and must be replaced.
3. Respondents own the water rights and/or receive irrigation water in Dodds Ditch.
4. Respondents are responsible for the installation and maintenance of a measuring device capable of accurately measuring the quantity of water entering Dodds Ditch.
5. Without a proper measuring device, the water commissioner and others monitoring the operation of the ditch do not know the quantity of water diverted.

## III. ACTIONS REQUIRED

1. A suitable measuring device must be installed to enable the measurement of water delivered or diverted into Dodds Ditch. (Note: The proper replacement of the 2- foot Parshall flume would likely satisfy this requirement, but there are other types of flumes or weirs available that could also satisfy the requirement if properly installed.)
2. The measuring device must provide "reasonably accurate" flow measurement for flows up to about five cubic feet per second (cfs).
3. **Respondent must complete the installation of a "properly functioning" measuring device on the Dodds Ditch on or before November 1, 2014.**

## IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

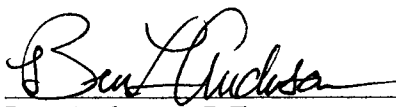
## V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert Leake  
*Regional Engineer*  
*Eastern Region*  
*Utah Division of Water Rights*  
*318 North Vernal Avenue*  
*Vernal, Utah*  
*(435) 247-1514*

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

Dated this 31<sup>st</sup> day of July, 2014

A handwritten signature in black ink, appearing to read "Ben Anderson", is written over a horizontal line.

Ben Anderson, P.E.  
Distribution Engineer  
Utah Division of Water Rights

cc: Robert Leake, Regional Engineer  
Larris Hunting, Ashley Creek Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 31st day of July, 2014, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Gala Morris  
6519 North 6500 West  
Vernal, UT 84078**

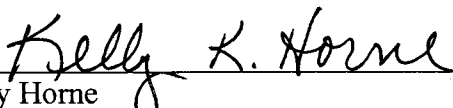
USPS TRACKING # **9114 9011 2308 6069 1221 62**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Carol and Dyle Webster  
1281 West 3200 North  
Vernal, UT 84078**

USPS TRACKING # **9114 9011 2308 6069 1221 79**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

**Kendal and Erin Hacking  
2422 North 1500 West  
Vernal, UT 84078**

USPS TRACKING # **9114 9011 2308 6069 1221 86**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.

  
\_\_\_\_\_  
Kelly Horne  
Division of Water Rights  
Field Services Secretary